

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: EAST PALESTINE TRAIN
DERAILMENT

)
) CASE NO. 4:23CV0242
)
)
) JUDGE BENITA Y. PEARSON
)
)
)
)
)
) **ORDER**

* * * * *

CERAMFAB, INC., *et al.*,

Plaintiffs,

v.

NORFOLK SOUTHERN
CORPORATION, *et al.*,

Defendants.

)
) CASE NO. 4:23CV2206
)
)
) JUDGE BENITA Y. PEARSON
)
)
)
)
)
) **ORDER**

I.

On April 5, 2023, the Court, pursuant to [Fed. R. Civ. P. 42](#), consolidated 31 cases that had been filed regarding the February 3, 2023 Norfolk Southern train derailment in East

Palestine, Ohio. *See* Order ([ECF No. 28](#) in No. 4:23CV0242).¹ The Court also appointed Seth A. Katz, M. Elizabeth Graham, Jayne Conroy, and T. Michael Morgan as Co-Lead Counsel. The Order sets forth the responsibilities that Co-Lead Counsel, in consultation with the Members of the Executive Committee, shall have “on behalf of all Plaintiffs in this action and any additional related actions that are consolidated with this action (collectively, ‘the Action’).” [ECF No. 28 in No. 4:23CV0242 at PageID #: 565](#).

On November 14, 2023, Plaintiffs CeramFab, Inc., CeramSource, Inc., Yonggong, LLC, and WYG Refractories, LLC filed Case No. 4:23CV2206. The same counsel that filed Case No. 4:23CV0509 have also filed Case No. 4:23CV2206, which is also an individual non-class case. The Civil Cover Sheet ([ECF No. 1-1](#)) improperly failed to indicate it as a refiled case,² the

¹ The Cory Watson attorneys, counsel for Plaintiffs CeramFab, Inc., CeramSource, Inc., and WYG Refractories, LLC in [CeramFab, Inc., et al. v. Norfolk Southern Corporation, et al., Case No. 4:23CV0509 \(N.D. Ohio filed March 13, 2023\)](#), which is an individual non-class case, did not agree that consolidation was appropriate and did not consent to being part of a Master Consolidated Class Action Complaint. *See* Motion to Appoint Interim Class Counsel and a Plaintiffs’ Leadership Structure (“Plaintiffs’ Motion”) ([ECF No. 25](#)) at PageID #: 206-209; ([ECF No. 26](#)) at PageID #: 534 n. 1; Transcript of March 31, 2023 Hearing on Plaintiffs’ Motion ([ECF No. 29](#)) at PageID #: 641-43. On April 28, 2023, Case No. 4:23CV0509 was voluntarily dismissed without prejudice pursuant to [Fed. R. Civ. P. 41\(a\)\(1\)\(A\)\(i\)](#).

² [Local Rule 3.1\(b\)\(4\)](#) provides, in relevant part:

Refiled, Dismissed and Remanded Cases. If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State Court, and subsequently refiled, it shall be assigned to the same District Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. *Counsel* or a party without counsel *shall be responsible for bringing such case to the attention of the Court by responding to the questions included on the Civil Cover Sheet.* (Emphasis added.)

original having been dismissed without prejudice. See [*CeramFab, Inc., et al. v. Norfolk Southern Corporation, et al.*, Case No. 4:23CV0509 \(N.D. Ohio April 28, 2023\)](#).

Case No. 4:23CV2206, a related action, is hereby consolidated into Case No. 4:23CV0242 for pretrial purposes pursuant to [Rule 42](#).

II.

The Court previously announced its intention to administratively close all but Case No. 4:23CV0242 upon the filing of a Master Consolidated Class Action Complaint regarding the February 3, 2023 Norfolk Southern train derailment in East Palestine, Ohio. See Order ([ECF No. 28 in 4:23CV0242](#)) at PageID #: 570 n. 7. The Master Consolidated Class Action Complaint ([ECF No. 31 in 4:23CV0242](#)) was filed on May 4, 2023. Accordingly, Case No. 4:23CV2206 is hereby closed.³

The Clerk of Court shall docket the within Order in Case Nos. 4:23CV0242 and 4:23CV2206. Thereafter, all pleadings and other papers for the above-entitled actions shall only be filed in and docket entries shall only be made in Case No. 4:23CV0242.

IT IS SO ORDERED.

November 16, 2023
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge

³ The Clerk's Office shall administratively close Case No. 4:23CV2206.